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OFFICE OF PETITIONS

In re Application of :
Hayes et al. :
Application No. 09/876,563 : DECISION GRANTING PETITION
Filed: 7 June, 2001 :
Attorney Docket No. 12587-007001 :

This is a decision on the petition, filed on 20 December, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioners state that the present nonprovisional application is the subject of a foreign or international application filed on 5 June, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
and
- (3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 27 May, 2003. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 16 October, 2003, was mailed on 8 July, 2003.

This application is being forwarded to Technology Center Art Unit 3625 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.



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Office of Petitions